

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JACOB HEATH VANSLYKE, #189698

PLAINTIFF

v.

CAUSE NO. 1:17cv164-LG-RHW

PEARL RIVER COUNTY, ET AL.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION,
GRANTING MOTION FOR SUMMARY JUDGMENT,
AND DISMISSING CLAIMS**

This cause comes before the Court on the [101] Report and Recommendation of United States Magistrate Judge Robert Walker entered in this cause on July 29, 2019. Magistrate Judge Walker reviewed the [82] Motion for Summary Judgment filed by Defendants Pearl River County, Sheriff David Alison, Major Julie Flowers, Captain Corey Mataya, Sergeant Liz Barton, and Officers Heath Wayne, Roy D'Arcangelo, Jr., and Tanisha Burnett in this *pro se* prisoner civil rights lawsuit. Magistrate Judge Walker recommends that the motion be granted for a number of reasons, but primarily because Plaintiff VanSlyke failed to exhaust administrative remedies prior to filing his complaint.

VanSlyke neither responded to the motion nor objected to the Magistrate Judge's Report and Recommendation. Under these circumstances, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After review of this matter, the Court finds that the Report and

Recommendation is neither clearly erroneous nor contrary to law. It will therefore be adopted as the opinion of this Court.

Additionally, Plaintiff named six other officers as defendants – Devin Magee, Breanna Cabe, Raymond Harvey, Jessica Christina, James Keenum, and Terry Poe – and returns dated in January and February 2018 for those defendants are in the record. (*See* ECF Nos. 34, 36, & 37.) None of the defendants has made an appearance in the case and Plaintiff has not moved for entry of default against them or taken any other action in the year and a half since service. The Court will therefore dismiss Plaintiff's claims against Devin Magee, Breanna Cabe, Raymond Harvey, Jessica Christina, James Keenum, and Terry Poe for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

IT IS THEREFORE ORDERED AND ADJUDGED that the [101] Report and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on July 29, 2019 should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the [82] Motion for Summary Judgment is **GRANTED**. Plaintiff's claims against Defendants Pearl River County, Sheriff David Alison, Major Julie Flowers, Captain Corey Mataya, Sergeant Liz Barton, and Officers Heath Wayne, Roy D'Arcangelo, Jr., and Tanisha Burnett are **DISMISSED** without prejudice.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's claims

against Defendants James Keenum, Devin Magee, Terry Poe, Breanna Cabe, Raymond Harvey, and Jessica Christina are **DISMISSED** without prejudice for failure to prosecute. Because there are no remaining claims to be adjudicated, the Clerk of Court may close this case. A final judgment will enter.

SO ORDERED AND ADJUDGED this the 11th day of September, 2019.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE